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C O N F I D E N T I A L SECTION 01 OF 02 CAIRO 009209

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SUBJECT: EGYPT: OPPOSITION LEADER AYMAN NOUR'S TRIAL HEADS

TOWARD CONCLUSION

REF: CAIRO 9053

Classified by ECPO Minister-Counselor Michael Corbin for reasons 1.4 (b) and (d).

¶11. (C) Summary: The trial of political opposition leader Ayman Nour, supervised by Judge Adel Abdel-Salam Gom'a, has been characterized by all of the irregularities and inconsistencies of the first two trials of Saad Eddin Ibrahim in 2001-2002, also tried by Judge Gom'a. The prosecution has generally appeared inept, at best. The Judge initially refused to allow the defense to make any arguments or call any witnesses, but ultimately relented in the face of a defense gambit that attracted embarrassing publicity. Farid al-Deeb, a flamboyant "lawyer to the stars," offered on December 10 a lengthy summation for the defense, detailing the contention that the case is driven by political rather than legal factors. The prosecution is expected to offer a rebuttal during a session on December 12. A verdict could come any time thereafter. Ultimately, we expect the judge to live up to his reputation for political "reliability." Whether the trial moves quickly or slowly, and toward a conviction or an acquittal, will be based on considerations other than the legal merits of the case. End summary.

Inept Prosecution

¶12. (C) The consensus among courtroom observers is that the prosecution has been inept and at times incoherent in its attempts to prove that Ayman Nour knowingly submitted documents containing forged signatures in support of the Ghad Party's license application in late 2004. At various times during the proceedings, the prosecution has seemed content to back up its assertions and allegations against Nour not with exhibits and testimony, but by citing Quranic verses and sayings of the Prophet Muhammad that deal with the punishment of the corrupt and the wicked.

¶13. (C) A particularly apt example of the prosecution's ineptitude came on November 28, when a Notary Public called as a witness for the prosecution testified that all three Ghad Party documents she had examined were legal and in order. Apparently caught off guard, the prosecutor asked her, in an exasperated tone, about "the other 11 documents - didn't you see forged signatures on them?" The Notary Public replied calmly: "I was given three documents to examine and all three were legal and in order." After the session, the prosecutor was seen yelling at the witness, following her into the lobby.

An Arbitrary Bench

¶14. (C) Judge Adel Salam Gom'a's management of the case to date has been arbitrary and unpredictable. During several sessions in November, he consistently ignored any and all defense motions, and showed no inclination to even allow the defense to call any witnesses. On November 29, Nour's entire defense team announced in exasperation that they were resigning en masse. The dramatic move prompted headlines in several independent Egyptian dailies. The defense team's resignation was a gambit which apparently succeeded in its aim. Defense lawyers showed up for the November 30 session and found an uncharacteristically amiable Judge Gom'a happy to allow them to call witnesses. Yet Gom'a surprised observers again with his December 5 order that Nour be remanded to custody, prompting predictions that a conviction and jail sentence were certain to be meted out at the next hearing - on December 10 (reftel). Again, these predictions did not come to pass.

¶15. (C) It remains unclear whether the statements of Ayman Ismail Hassan, a.k.a. "defendant number 3," have been admitted into the official court record. Hassan told the court in June that he had been coerced by prosecutors into signing an affidavit incriminating Nour, prompting shouts of vindication from Nour and his supporters. However, as of December 10, no one on the defense team could tell poloff for certain whether Hassan's recantation had been officially recorded by the court. In any case, according to Nour's lead

defense attorney, GOE retaliation against Hassan for his embarrassing revelation was harsh. He is currently being housed in cells normally reserved for condemned prisoners, lawyer Amir Salem claimed.

Defense Summation: A Political, not Legal Case

16. (SBU) The defense presented its summation during a five hour session on December 10. Hundreds of riot police watched over about 300 Nour supporters gathered in front of the courthouse. The crowd's pro-Nour and anti-Mubarak chants were clearly audible inside the courtroom. Poloffs from the U.S., Sweden, and Norway attended the hearing, as did dozens of Egyptian journalists and correspondents from al-Jazeera, al-Arabiya, al-Hurra, and even an Iranian satellite news channel.

17. (C) Farid al-Deeb, one of Cairo's most celebrated attorneys, offered a lengthy, detailed, and often flamboyant review of the evolution of the criminal case against Nour, arguing that the timing, nature, and procedures followed in the case all proved that political rather than legal factors were the driving elements. Ultimately, al-Deeb asserted, the case against Nour constitutes an abuse of the judicial system by politicians intent on taking revenge on him. Interestingly, al-Deeb eagerly and frequently repeated his view that President Mubarak himself was not involved in the efforts of unnamed senior officials to destroy Nour.

Prognosis

18. (C) The prosecution will offer a rebuttal to Farid al-Deeb's summation on December 12. It is unknown whether lawyers for Nour's six co-defendants will also be allowed additional time, or if the judge will retire to contemplate a verdict after the prosecution's rebuttal. A verdict could come on December 12, or sometime later. We do not believe this case will be decided on its legal merits. Based on Judge Gom'a's handling of the case so far, and his conduct of Saad Eddin Ibrahim's two trials in 2001 and 2002, we believe Judge Gom'a will live up to his reputation for political "reliability." Ultimately, therefore, whether the judge moves quickly or slowly, and toward a conviction or an acquittal, will be based on considerations other than the legal merits of the case.

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